

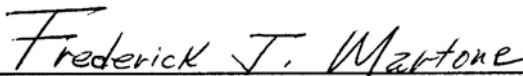


1 The parties did not avail themselves of this mechanism to consolidate the appeals. Instead,  
2 plaintiff filed its notice of appeal and now asks us to delay our consideration of the attorneys'  
3 fee motion until after the Ninth Circuit renders judgment.

4 It is well established that a district court retains jurisdiction to award attorneys' fees  
5 after a notice of appeal on the merits has been filed. Masalosalo v. Stonewall Ins. Co., 718  
6 F.2d 955, 957 (9th Cir. 1983). Such a policy promotes judicial economy by avoiding  
7 piecemeal appeals and allowing an appeal of the fee award to be consolidated with the merits  
8 appeal. Id. Moreover, a timely disposition of a motion for attorneys' fees allows us to  
9 consider the motion while the case is still fresh, and at the same time remains consistent with  
10 the Civil Justice Reform Act.

11 Therefore, **IT IS ORDERED DENYING** the parties' joint motion to extend the filing  
12 deadline (doc. 100). Defendants' supporting memorandum is due no later than October 28,  
13 2008.

14 DATED this 24<sup>th</sup> day of September, 2008.

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 Frederick J. Martone  
19 United States District Judge  
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